

### **REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claims 1-16, 18-34, 37-52, and 54-55 are pending in the application, with claims 1, 20, 37, and 51 being independent. Applicant cancels claims 17, 35, 36, and 54 without prejudice, waiver, or disclaimer of the subject matter. Claims 1, 13, 20, 37, 50, and 51 are amended herein. Applicant adds new claim 55. These revisions introduce no new matter.

### **CLAIM OBJECTIONS**

Claim 7 stands objected to because of informalities. Specifically, that claim recited “each data *file files* comprises...” Applicant amends claim 7 to address the informalities noted in the Office Action. Accordingly, Applicant requests withdrawal of the claim objections.

### **SPECIFICATION OBJECTIONS**

The specification stands objected to as allegedly failing to provide proper antecedent basis for the claimed subject matter. Specifically the Office asserts that the recital of “the web pages are grouped into web page regions” is not supported by the specification (Office Action, page 2). The specification is amended in accordance with MPEP §2163.06(III) to address the informalities noted in the Office Action. Accordingly, Applicant requests withdrawal of the specification objections.

## **§ 112 SECOND PARAGRAPH REJECTIONS**

**Claims 14 and 15 stand rejected under 35 U.S.C. §112, as allegedly being indefinite.** Applicant respectfully asserts that amendments to the specification in response to the specification objections render claims 14 and 15 definite. Accordingly, Applicant requests withdrawal of the claim rejections.

## **§ 102 REJECTIONS**

**Claims 1, 2, 6, 19, 20, 21, 22, 25, 37, 40, and 51 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,978,855 (Metz).** Applicant respectfully traverses the rejection.

### **Independent Claim 1**

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends **independent Claim 1**, to clarify further features of the subject matter. Support for this amendment is found in the application as originally filed at least on page 10, line 24-page 11; line 2, page 11; line 5-page 13 line 7; page 15, lines 12-14; and original claim 17. No new matter has been added. Amended claim 1 now recites a method comprising:

cyclically transmitting a set of data files to a plurality of data file receivers;  
determining a number of data files accommodated by the set of data files;  
determining a size of each data file;  
determining a data transmission rate;  
monitoring a worst case latency between successive transmissions of the data files in the set of data files,  
*wherein the worst case latency is calculated by a*

*summation, for other data files in the set of data files, of a relative ratio of the data file to another data file rounded up to a next integer times a file size of the data file, the summation divided by the data transmission rate;*

modifying the set of data files based on information received from one or more of the plurality of data file receivers;

*further modifying the set of data files if the worst case latency for the data files exceeds a threshold value, wherein the threshold value is the time it takes for a data file receiver request to reach a head end, the time it takes the head end to insert the data file into a cyclical transmission of data files and the time it takes for the data file receiver to acquire the data file; and*

cyclically transmitting the modified set of data files to the plurality of data file receivers.

Applicant respectfully submits that no such method is anticipated by Metz.

Applicant has searched and failed to find any evidence in the cited references of “wherein the worst case latency is calculated by a summation, for other data files in the set of data files, of a relative ratio of the data file to another data file rounded up to a next integer times a file size of the data file, the summation divided by the data transmission rate” or “the threshold value is the time it takes for a data file receiver request to reach a head end, the time it takes the head end to insert the data file into a cyclical transmission of data files and the time it takes for the data file receiver to acquire the data file,” as presently recited in Applicant’s amended claim 1. Additionally, claim 1 as presently presented recites “further modifying the set of data files if the worst case latency for any data file exceeds a threshold value.”

The Office acknowledges, and Applicant agrees, that Metz fails to disclose “the method of monitoring the worst case latency between successive transmissions of a data

file in the set of data files” (Office Action, page 31). The Office previously rejected similar language when presented in claim 17 as obvious over the combination of Metz in view of Japanese Patent No. 2002-135215 (Sugimori). Sugimori is directed to moving a recently updated file from its normal position in a data carousel toward the front of the data carousel (paragraph 0008). The Office asserts, as its only grounds of rejection for this feature that, Sugimori teaches “monitoring and updating the files by altering the file to be distributed faster, see abstract” (Office Action, page 31). The abstract of Sugimori does not discuss files that are “distributed faster” or “updating the files” as asserted by the Office. The abstract of Sugimori, when understood in light of the specification, clearly describes monitoring of updates (not any specific updating of files) and changing the delivery order of files (not distributing files faster). Even assuming for the sake of argument that the Office’s characterization of the abstract of Sugimori is correct, the Office has failed to present any evidence of “modifying the set of data files ***if the worst case latency for any data file exceeds a threshold value,***” as recited in Applicant’s claim 1. Sugimori fails to remedy the deficiencies that the Office identified in Metz. Thus, Metz and Sugimori, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to teach or suggest all the features of Applicant’s claim 1.

As discussed during the interview, claim 1 as amended patentably distinguishes over the cited references. For all the above reasons, Applicant respectfully asserts that claim 1 is allowable and requests withdrawal of the §102 rejection of claim 1.

**Dependent claims 2-16 and 18-19** depend from independent claim 1 and are allowable by virtue of this dependency, as well as for additional features that they recite.

Applicant also respectfully requests individual consideration of each dependent claim. Applicant respectfully requests withdrawal of the rejections of claims 2-16 and 18-19.

#### Independent Claim 20

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends **independent claim 20**, to clarify further features of the subject matter. Support for this amendment is found in the application as originally filed at least on page 6, lines 22-24; page 10, lines 12-13; original claim 35; and original claim 36. No new matter has been added. Amended claim 20 now recites a system comprising:

a data carousel generator cyclically transmitting a set of data files to one or more data file receivers; and

a carousel configuration module that modifies the set of data files:

based on *information received from the one or more data file receivers through a back channel;*

based on a file transmission latency information, *wherein the file transmission latency is an amount of time between receiving a request for a particular file and providing a requested file from the data carousel;* and

*such that a worst case latency between successive transmissions of a particular data file is less than a maximum latency value, wherein the maximum latency value is a maximum amount of time permitted between receiving a request for a particular file and providing the requested file from the data carousel.*

Applicant respectfully submits that no such system is anticipated by Metz.

Applicant has searched and failed to find any evidence in the cited references of “information received from the one or more data file receivers through a back channel,”

“file transmission latency is an amount of time between receiving a request for a particular file and providing the requested file from the data carousel,” or “maximum latency value is a maximum amount of time permitted between receiving a request for a particular file and providing the requested file from the data carousel,” as presently recited in Applicant’s amended claim 1. The cited references also fail to teach, suggest, or discuss a carousel configuration module that modifies a set of data files based on all of the above elements.

Additionally, for the reasons asserted above with respect to claim 1, the combination of Metz and Sugimori, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to teach or suggest all the features of Applicant’s claim 20.

As discussed during the interview, claim 20 as presently presented patentably distinguishes over the cited references. For all the above reasons, Applicant respectfully asserts that claim 20 is allowable and requests withdrawal of the §102 rejection of claim 20.

**Dependent claims 21-34** depend from independent claim 20 and are allowable by virtue of this dependency, as well as for additional features that they recite. Applicant also respectfully requests individual consideration of each dependent claim. Applicant respectfully requests withdrawal of the rejections of claims 21-34.

#### Independent Claim 37

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends **independent claim 37**, to clarify

further features of the subject matter. Support for this amendment is found in the application as originally filed at least on page 25, lines 5-6. No new matter has been added. Amended claim 37 now recites a computer-readable media having stored thereon a computer program that, when executed by one or more processors, causes the one or more processors to:

*determine an arrangement of data files* in a set of cyclically broadcast data files based on information received from one or more data file receivers of the set of cyclically broadcast data files, wherein the information identifies a data file that is desired by the data file receiver.

Applicant respectfully submits that no such computer-readable media is anticipated by Metz.

The Office fails to supply a grounds of rejection specific to claim 37. Instead the Office asserts that “claim 37 stands rejected for the same reasons as stated above (see claim 1) since it is *inherent* to the apparatus claimed in claim 1” (Office Action, page 6, emphasis added). Applicant initially notes that claim 1 recites a method not an apparatus. Claim 1 as previously presented recited “modifying the set of data files” whereas claim 37 recites “determine an arrangement of data files.” Applicant respectfully disagrees with the Office’s reasoning, since the features alleged to be inherent are not necessarily present in claim 37. In this case, the “modification” of claim 1 need not necessarily be similar to the “arrangement” of claim 37. “In general, a *modification* to the set of data files performed by the modify operation 614 may be any type of structural or functional alteration made to any one data file or subset of data files, or to the set of data files as a whole” (Application page 25, lines 17-20, emphasis added). In contrast, “[t]he quantity and *arrangement* of data files in the data carousel determines the frequency with which

particular data files are transmitted and the delay between successive transmissions of the same data file” (Application, page 2, lines 3-5, emphasis added).

The above passages from the application clearly show that claim 37 is not inherently the same as claim 1. Accordingly, the Office has failed to supply evidence showing each and every element from claim 37 in a single reference as is necessary for a showing of anticipation. For all the above reasons, Applicant respectfully asserts that claim 37 is allowable and requests withdrawal of the §102 rejection of claim 37.

**Dependent claims 38-50** depend from independent claim 37 and are allowable by virtue of this dependency, as well as for additional features that they recite. Applicant also respectfully requests individual consideration of each dependent claim. Applicant respectfully requests withdrawal of the rejections of claims 38-50.

#### Independent Claim 51

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends **independent claim 51**, to recite elements previously found in claim 53 which depended from claim 51. The Office rejected claim 53 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,978,855 (Metz) in view of Japan Patent Application Publication No. 2002/135215 (Sugimori). Applicant respectfully traverses the rejection.

For at least reasons similar to those asserted with respect to claim 1, the Office has failed to present evidence of a system that “*modifies* the order of the set of data files broadcast from the data carousel generator *based on file transmission latency* information,” as presently recited in Applicant’s claim 51. Thus, Metz and Sugimori,



whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to teach or suggest all the features of Applicant's claim 51.

As discussed during the interview, claim 51 patentably distinguishes over the cited references. For all the above reasons, Applicant respectfully asserts that claim 1 is allowable and requests withdrawal of the rejection of claim 51.

The amendments to claim 51 are to incorporate along the lines of former dependent claim 53. Accordingly, claim 53 is canceled. Consequently, one or more claims presented herein have already been examined in the Office Action. Furthermore, Applicant explains herein why this already-examined claim is patentably distinguished from the references of record. Therefore, in accordance with 37 CFR § 1.113 and MPEP 706.07(a), finality for the next action would be premature.

#### New Claim 55

Applicant adds **new claim 55**. This claim depends from independent claim 20 and is allowable by virtue of this dependency, as well as for additional features that it recites. Support for this amendment is found in the application as originally filed at least on page 18, lines 16-23. There is no new matter. Accordingly, Applicant respectfully requests prompt allowance of claim 55.

### **CONCLUSION**

Claims 1-16, 18-34, 37-52, and 54-55 are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of the subject application. If any issue remains unresolved that would prevent allowance of this case, the Office is requested to contact the undersigned attorney to resolve the issue.

Respectfully submitted,

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